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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/516,932 | 12/14/2004 | Yasuharu Seki | 258218US6PCT | 8643 |
| 22850 7590 05/12/2009 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314 | | | EXAMINER MCADAMS, BRAD | |
| | | | ART UNIT 2456 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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|------------------------------|--------------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 10/516,932 | Applicant(s) SEKI ET AL. | |
| | Examiner ROBERT B. MCADAMS | Art Unit 2456 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the request for continued examination filed on February 26, 2009.
2. Claims 1-20 are pending.

Response to Arguments

3. Applicant's arguments with respect to Claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-4, 8-12 and 14-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over *McCaleb* (U.S. Patent No. 6,751,794) in view of *Chan* (U.S. PGPub. No. 2002/0194356 A1).

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6. As to **Claims 1, 3, 8-10, 15, 18 and 20**, *McCaleb* discloses an information processing apparatus (**Client System 110, Figure 1**) comprising:

memory means for separately storing functional generation information and application software (**Client System 110 stores the version of the currently installed software, "functional generation information", and the installed software packages, "application software". Column 3, Lines 54-58**);

managing means for managing first functional generation information stored in said memory means (**Column 4, Lines 31-37**);

obtaining means for obtaining second functional generation information that corresponds to the application software (**Software patches and updates**), wherein the second functional generation information is registered in an information providing apparatus (**Server 105, Figure 1**), wherein the information providing apparatus is remotely located from said information processing apparatus and connected to said information processing apparatus via a network (**Column 4, Lines 2-10**), and wherein said obtaining means obtains said second functional generation information based on said first functional generation information (**Second functional generation information is obtained when first functional generation information is in need of updating.**

Figure 2);

comparing and determining means for comparing said first functional generation information and said second functional generation information and for determining which of said first or second functional generation information is a newest functional generation information; and information updating means for, when said comparing and

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determining means determines that said second functional generation information is newer than said first functional generation information, updating said first functional generation information stored in said memory means to said newest functional generation information, such that said memory means contains said second functional generation information **(Server 105 compares second functional generation information with the first functional generation information. If second generation information is newest, Client 110 is updated with said newest information. Figure 2; Column 4, Lines 31-44).**

However, *McCaleb* does not expressly teach wherein the functional generation information enables the application software to access functions when the functional generation information is concurrently located in the memory means with the application software.

Chan, in the same field of endeavor, teaches when a Virtual Amplifier, "application software", is updated, "second functional generation information", the update includes a new product serial number/encryption key that when located in the memory means of the Virtual Amplifier, enables the application to access the music files **(Paragraph 0033).**

At the time of invention, it would have been obvious to a person of ordinary skill in the art to have combined the encryption key as taught by *Chan* with the functional generation information update as taught by *McCaleb*. Using an encryption key to access a first, original set of first functions and subsequently receiving a second, new functional generation information with a new encryption key to access the new updated

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second set of functions would have been enabled by one skilled in the art to have combined the elements as claimed with no change in their respective functions and would have yielded predictable results.

As to **Claims 2, 14 and 17**, *McCaleb-Chan* further teaches a means for determining whether a predetermined time has passed on a basis of said first functional generation information, wherein when said passage determining means determines that said predetermined time has passed, said obtaining means obtains said functional generation information registered in said information providing apparatus via said network (**Update is performed on a periodic basis, such as every 24 hours. Column 4, Lines 11-18**).

As to **Claims 4, 16 and 19**, *McCaleb-Chan* further discloses wherein when said function determining means determines that said software does not have the second functions corresponding to said second functional generation information, said software updating means updates the software stored in said memory using the software corresponding to said second functional generation information (**Server 105 checks the configuration of Client 110 to determine what new functions the software the software does not contain and updates said software. Column 4, Lines 31-44**).

As to **Claim 11**, *Chan-McCaleb* further teaches wherein said functional generation information is a combination of cryptographic keys, and protocols

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(Paragraph 0041) wherein said functional generation information is shared among a plurality of application software located in said memory means, such that each of the plurality of application software is enabled to access said functions **(Paragraph 0044)**.

As to **Claim 12**, *McCaleb* further teaches wherein said information processing apparatus is a personal computer **(Column 1, Lines 29-37 and Column 2, Lines 44-45)**,

Chan teaches wherein said information providing apparatus is a server configured to provide said personal computer a music content distribution service **(Paragraph 0040)**;

wherein said application software receives a copyrighted material from said music content distribution service **(Paragraph 0040)**; and

wherein said functional generation information enables said application software to receive and use said copyrighted material **(Paragraph 0044)**.

At the time of invention, it would have been obvious to a person of ordinary skill in the art to have combined the server as taught by *McCaleb* with the music content distribution service as taught by *Chan*. The motivation would have been to provide updates to music programs.

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7. **Claims 5-7 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over *McCaleb* (U.S. Patent No. 6,751,794) in view of *Chan* (U.S. PGPub. No. 2002/0194356 A1) and in further view of *Xian* (U.S. Patent No. 6,327,584).

8. As to **Claims 5 and 13**, *McCaleb-Chan* teaches comparing said first functional generation information and said second functional generation information with each other and determining newest functional generation information as discussed in Claim 1.

However, *McCaleb-Chan* does not expressly disclose comparing a third functional generation information from a recording medium.

Xian, in the same field of endeavor, teaches a medium determining means for determining whether a recording medium is loaded; and reading means for reading third functional generation information as functional generation of software recorded on said recording medium when said medium determining means determines that said recording medium is loaded and said information updating means updates said first functional generation information to said newest functional generation information; and said software updating means updates the software stored in said memory using software corresponding to said newest functional generation information. **(Update information (third functional generation) is loaded from the CD-ROM (medium) and used to update the original file (first functional generation) Column 13, Lines 30-42);**

At the time of invention, it would have been obvious to a person of ordinary skill in the art to compare the first and second functional generation information as taught by *McCaleb-Chen* with the third functional generation information as taught by *Xian* to determine the newest functional generation information. The motivation would have been to provide another medium for updated software versions.

As to **Claim 6**, *Xian-McCaleb-Chan* teaches when said obtaining means does not obtain said second functional generation information via said network, said comparing and determining means compares said first functional generation information and said third functional generation information with each other, and determines said newest functional generation information (**Current revision installed on computer and the revision on the CD-ROM (first and third functional generation information) are compared and the newest revision (functional generation information) is saved to the computer. Column 13, Lines 30-42**).

As to **Claim 7**, *Xian-McCaleb-Chan* teaches when said comparing and determining process determines that said second functional generation information and said third functional generation information are identical with each other, said information updating means updates said first functional generation information to said third functional generation information; and said software updating means updates the software stored in said memory using software corresponding to said third functional generation information (**Revision from the network and the revision on the CD-ROM**

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(second and third functional generation information) are compared and the newest revision (functional generation information) is saved to the computer.

Column 13, Lines 30-42).

Examiners Note: In an effort to advance prosecution, the examiner reveals a feature of the invention found in the specification, not currently claimed, which may overcome the references made of record.

In the Applicants specification, Figures 5 and 14, Paragraph 0060 teach where the functional generation information includes a URL of an update site for the information processing apparatus to go to for updates.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT B. MCADAMS whose telephone number is (571)270-3309. The examiner can normally be reached on Monday-Thursday 6:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. B. M./
Examiner, Art Unit 2456

/Bunjob Jaroenchonwanit/
Supervisory Patent Examiner, Art Unit 2456